



City Clerk

CITY OF SAN JOSÉ, CALIFORNIA

Office of the City Clerk
200 East Santa Clara Street
San José, California 95113
Telephone (408) 535-1260
FAX (408) 292-6207

STATE OF CALIFORNIA)
COUNTY OF SANTA CLARA)
CITY OF SAN JOSE)

I, Lee Price, City Clerk & Ex-Officio Clerk of the Council of and for the City of San Jose, in said County of Santa Clara, and State of California, do hereby certify that **"Ordinance No. 28581"**, the original copy of which is attached hereto, was passed for publication of title on the **2nd day of June, 2009**, was published in accordance with the provisions of the Charter of the City of San Jose, and was given final reading and adopted on the **16th day of June, 2009**, by the following vote:

AYES: CAMPOS, CHU, CONSTANT, HERRERA, KALRA, LICCARDO,
OLIVERIO, PYLE; REED.

NOES: NONE.

ABSENT: CHIRCO, NGUYEN.

DISQUALIFIED: NONE.

VACANT: NONE.

Said ordinance is effective as of **July 24, 2009**.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the corporate seal of the City of San Jose, this **18th day of June, 2009**.

(SEAL)

LEE PRICE, MMC
CITY CLERK & EX-OFFICIO
CLERK OF THE CITY COUNCIL

/rmk

ORDINANCE NO. 28581

**AN ORDINANCE OF THE CITY OF SAN JOSE ESTABLISHING
RULE 20A UNDERGROUND UTILITY DISTRICT ALONG COLEMAN
AVENUE BETWEEN WEST HEDDING STREET AND SPRING STREET,
NORTH MARKET STREET BETWEEN WEST JULIAN STREET AND
WEST ST. JAMES STREET, AND DEVINE STREET BETWEEN NORTH
SAN PEDRO STREET AND NORTH FIRST STREET**

WHEREAS, by Resolution No. 74881, the City Council of San José set a Public Hearing on June 2, 2009 at 1:30 P.M., in the Council Chambers of the City of San José, City Hall, 200 E. Santa Clara Street, at the corner of Fourth and East Santa Clara Streets, San José, to ascertain whether an Underground Utility District should be established in the area designated as the "COLEMAN AVENUE UNDERGROUND UTILITY DISTRICT" (hereinafter called "District") and more fully described and shown on EXHIBITS A-1 and A-2 hereto; and

WHEREAS, written notice of the Public Hearing has been given pursuant to Section 15.24.050 of the San José Municipal Code, such hearing has been duly and regularly held, and all persons interested have been given a reasonable opportunity to be heard; and

WHEREAS, the criteria to form a district as set forth in San José Municipal Code Section 15.24.060 include:

- a. Removal of overhead wires and placement underground will eliminate an unusually heavy concentration of poles and overhead wires within the Proposed District; and
- b. Public streets or rights-of-way within the Proposed District are extensively used by the general public and carry a heavy volume of pedestrian or vehicular traffic; and

- c. Public streets or rights-of-way within the Proposed District adjoin or pass through a civic area or public recreation area or an area of unusual scenic interest to the general public; and

WHEREAS, pursuant to Section 15.24.060 of the San José Municipal Code, the City Council hereby finds and determines, based on evidence presented at the Public Hearing including the memorandum from the Director of Public Works dated March 23, 2009, and attached hereto as Exhibit A-3, that the above conditions exist within the proposed district, and public necessity, health, safety, and welfare require and it is in the general public interest that existing poles and overhead wires within the District be removed therefrom and thereafter prohibited and that wires and associated facilities within the District for transmitting, conducting, conveying, distributing, or supplying electricity for the purpose of providing light, heat, power, telephone, telegraph, communication, television, or other similar or associated service be installed underground; and

WHEREAS, this Ordinance is subject to Mitigated Negative Declaration project file number PP08-257;

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of San Jose:

SECTION 1. The City Council hereby declares that a certain area of the City of San Jose described and shown on EXHIBITS A-1 and A-2, attached hereto, made a part hereof, and incorporated herein by reference is established as an underground utility district to be designated "COLEMAN AVENUE UNDERGROUND UTILITY DISTRICT" and orders and requires that existing poles and overhead wires within said District be removed therefrom by the operators of the utilities and thereafter prohibited and that wires and associated facilities within said District for transmitting, conducting, conveying, distributing, or supplying electricity for the purpose of providing light, heat, power, telephone, telegraph, communication, television, or other similar or associated

service be installed underground subject to all of the provisions and exceptions contained in Part 3, Chapter 15.24, of the San Jose Municipal Code.

SECTION 2. Existing poles and overhead wires and associated facilities within the District for transmitting, conducting, conveying, distributing or supplying electricity for the purpose of providing heat, power, telephone, telegraph, communication, television or other similar or associated service shall be removed by the operators of the utilities ("Utility Companies") no later than January 31, 2012.

Wires and associated facilities within the District for transmitting, conducting, conveying, distributing or supplying electricity for the purpose of providing heat, power, telephone, telegraph, communication, television or other similar or associated service shall be installed underground no later than January 31, 2012. Persons owning any property as shown on the last equalized assessment roll served by overhead service drops which are extended from poles or spans located within the District must be ready to receive light, heat, power, telephone, telegraph, communications, television, or other similar or associated service by means of underground wires and facilities no later than January 31, 2012.

SECTION 3. The City Council does hereby request that the Pacific Gas & Electric Company and AT&T provide payment, computed pursuant to Rule 20 and Rule 32 respectively for the installation of no more than one hundred (100) feet (measured from the property line) of trenching, excavation, conduit installation, backfill, and surface restoration of each customer's individual service lateral to each qualifying premise affected by the District.

SECTION 4. The City Council does hereby request that the Pacific Gas & Electric Company pay, from the existing Rule 20A allocation, for the conversion of electric service panels to accept underground service, up to \$1,500 per service entrance, excluding permit fees.

SECTION 5. Within twenty (20) days of the effective date of this ordinance, the Director of Public Works shall give written notice to all affected Utility Companies owning, possessing, or controlling any poles or overhead wires in the district and all owners and occupants of property affected by said District as required by Sections 15.24.150 and 15.24.160 of the San José Municipal Code.

SECTION 6. In lieu of a notice to the Utility Companies for disconnection of service pursuant to Section 15.24.140 of the San José Municipal Code, the Director of Public Works may give an additional notice to any noncompliant property owners or occupants in said District pursuant to Section 15.24.170 of the San José Municipal Code.

SECTION 7. All encroachment permits, agreements or contracts issued or approved with the Utility Companies related to undergrounding activities in the District shall include term(s) and/or condition(s) requiring compliance with Mitigated Negative Declaration project file number PP08-257.

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SECTION 8. The Director of Public Works is hereby empowered to extend the time for any act required under this ordinance for the period of time and for the reasons set forth in Section 15.24.180 of the San José Municipal Code.

PASSED FOR PUBLICATION of title this 2nd day of June, 2009, by the following vote:

AYES: CAMPOS, CHU, CONSTANT, HERRERA, KALRA,
LICCARDO, OLIVERIO, PYLE, REED.

NOES: NONE.

ABSENT: CHIRCO, NGUYEN.

DISQUALIFIED: NONE.



CHUCK REED
Mayor

ATTEST:



LEE PRICE, MMC
City Clerk

Attachments:

- Exhibit A-1, Map
- Exhibit A-2, Description
- Exhibit A-3, Staff Memorandum

PROOF OF PUBLICATION

San Jose Mercury News

750 RIDDER PARK DRIVE
SAN JOSE, CALIFORNIA 95190

RECEIVED
San Jose City Clerk

2009 JUN 25 P 3:39

IN THE
City of San Jose
STATE OF CALIFORNIA
COUNTY OF SANTA CLARA

City of San Jose
Office of the City Group/Rebecca
200 E. Santa Clara St., 2nd Flr Wing
Attn: Cecilia Delgado

Ad No. 3187848
STATE OF CALIFORNIA)
) SS.
COUNTY OF SANTA CLARA)

The undersigned, being first duly sworn, deposes and says: That at all times hereinafter mentioned affiant was and still is a citizen of the United States, over the age of eighteen years, and not a party to nor interested in the above entitled proceedings; and was at and during all said times and still is the principal clerk of the printer and publisher of the San Jose Mercury News, a newspaper of general circulation printed and published daily in the city of San Jose in said County of Santa Clara, State of California, that said San Jose Mercury News is and was at all times herein mentioned a newspaper of general circulation as that term is defined by Sections 6000 and following, of the Government Code of the State of California, and, as provided by said sections, is published for the dissemination of local or telegraphic news and intelligence of a general character, having a bona fide subscription list of paying subscribers, and is not devoted to the interests or published for the entertainment or instruction of a particular class, professional, trade, calling, race or denomination, or for the entertainment and instruction of any number of such classes, professionals, trades, callings, races or denominations; that at all times said newspaper has been established, printed and published in the said city of San Jose in said County and State at regular intervals for more than one year preceding the first publication of the notice herein mentioned; that said notice was set in type not smaller than nonpareil and was preceded with words printed in black-face type not smaller than nonpareil, describing and expressing in general terms, the purport and character of the notice intended to be given; that the clipping of which is annexed is a true printed copy, was published and printed in said newspaper on the following dates, to-wit:

June 20, 2009

Dated at San Jose, California

This 22nd day of June, 2009.

I declare under penalty of perjury that the foregoing is true and correct.

Signed.....*[Signature]*
Principal clerk of the printer and publisher of the San Jose Mercury News.

2 1/2 x 2

ORDINANCE NO. 28581	
AN ORDINANCE OF THE CITY OF SAN JOSE ESTABLISHING RULE 20A UNDERGROUND UTILITY DISTRICT ALONG COLEMAN AVENUE BETWEEN WEST HEDDING STREET AND SPRING STREET, NORTH MARKET STREET BETWEEN WEST JULIAN STREET AND WEST STE JAMES STREET, AND DEVINE STREET BETWEEN NORTH SAN PEDRO STREET AND NORTH FIRST STREET	
PASSED FOR PUBLICATION of title this 2nd day of June, 2009, by the following vote:	
AYES:	CAMPOS, CHU, CONSTANT, HERRERA, KALRA, LICCARDIO, OLIVERIO, PYLE, REED
NOES:	NONE
ABSENT:	CHIRCO, NGUYEN
DISQUALIFIED:	NONE
ATTEST:	CHUCK REED Mayor
LEE PRICE, MMC City Clerk	
June 20, 2009	3187848

RD:JLP
06/02/09

EXHIBIT A-1

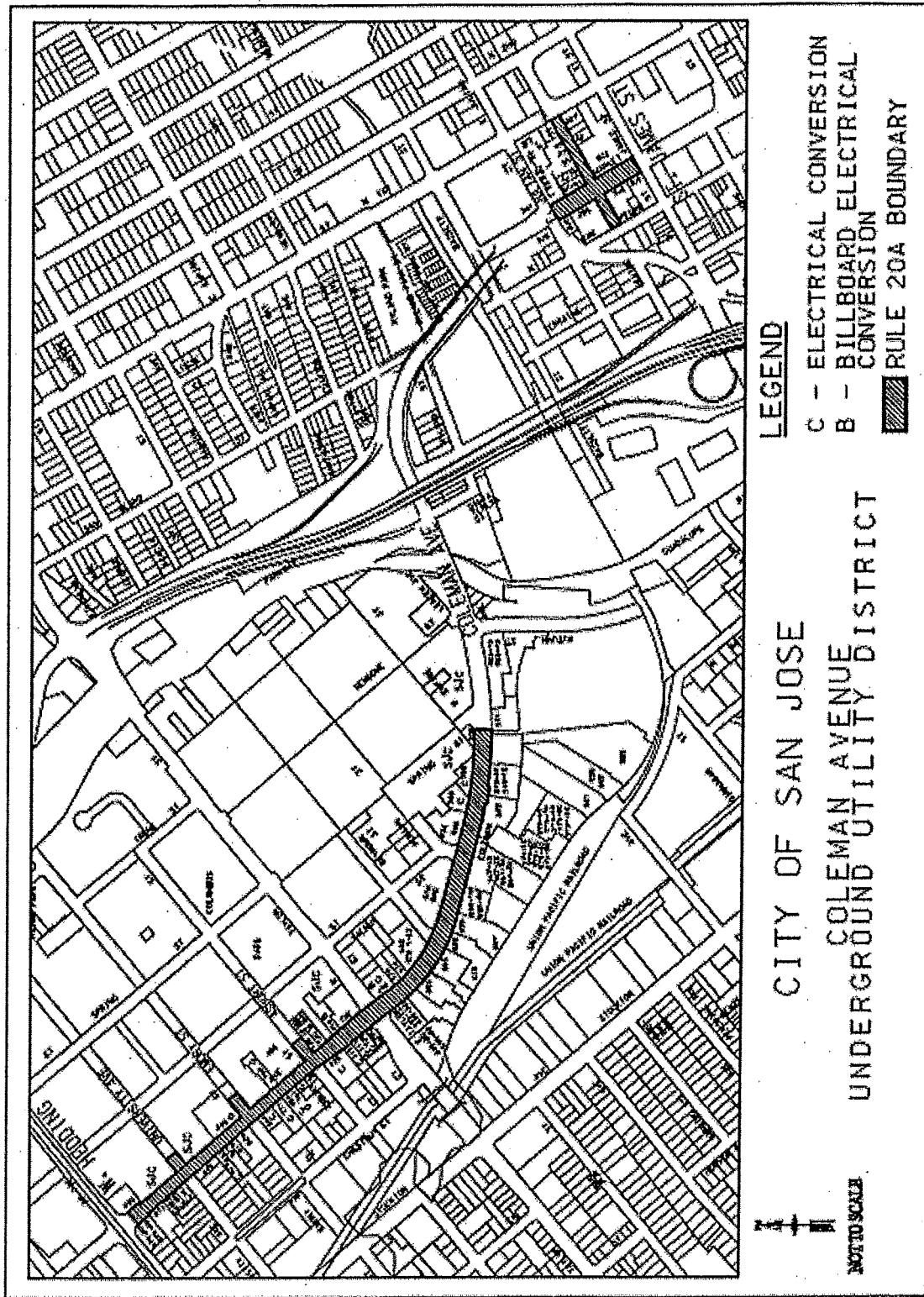


EXHIBIT A-2

DESCRIPTION OF PROPOSED BOUNDARY OF AN UNDERGROUND UTILITY DISTRICT ALONG COLEMAN AVENUE BETWEEN WEST HEDDING STREET AND SPRING STREET, NORTH MARKET STREET BETWEEN WEST JULIAN STREET AND WEST ST. JAMES STREET, AND DEVINE STREET BETWEEN NORTH SAN PEDRO STREET AND NORTH FIRST STREET.

All that certain real property situated in the City of San Jose, County of Santa Clara, State of California, described as follows:

BEGINNING at a true point at the intersection of the northerly right-of-way line of Coleman Avenue and the westerly right of way line of Spring Street;

THENCE proceeding in a northwesterly direction 2,800'+/- along the northerly right-of-way line of Coleman Avenue to a point of intersection with the southerly right-of-way line of Asbury Street;

THENCE proceeding in a northeasterly direction 115'+/- along the southerly right-of-way line of Asbury Street;

THENCE proceeding in a northwesterly direction 70'+/- perpendicular to the centerline of Asbury Street to a point of intersection with the northerly right-of-way line of Asbury Street;

THENCE proceeding in a southwesterly direction 120'+/- along the northerly right-of-way line of Asbury Street to a point of intersection with the northerly right-of-way line of Coleman Avenue;

THENCE proceeding in a northwesterly direction 410'+/- along the northerly right-of-way line of Coleman Avenue to a point of intersection with the southerly right-of-way line of Emory Street;

THENCE proceeding in a northeasterly direction 120'+/- along the southerly right-of-way line of Emory Street;

THENCE proceeding in a northwesterly direction 70'+/- perpendicular to the centerline of Emory Street to a point of intersection with the northerly right-of-way line of Emory Street;

THENCE proceeding in a southwesterly direction 120'+/- along the northerly right-of-way line of Emory Street to a point of intersection with the northerly right-of-way line of Coleman Avenue;

THENCE proceeding in a northwesterly direction 415'+/- along the northerly right-of-way line of Coleman Avenue to a point of intersection with the southerly right-of-way line of University Avenue;

THENCE proceeding in a northeasterly direction 94'+/- along the southerly right-of-way line of University Avenue;

THENCE proceeding in a northwesterly direction 70'+/- perpendicular to the centerline of University Avenue to a point of intersection with the northerly right-of-way line of University Avenue;

THENCE proceeding in a southwesterly direction 94'+/- along the northerly right-of-way line of University Avenue to a point of intersection with the northerly right-of-way line of Coleman Avenue;

THENCE proceeding in a northwesterly direction 362'+/- along the northerly right-of-way line of Coleman Avenue;

THENCE proceeding in a southwesterly direction 95'+/- perpendicular to the centerline of Coleman Avenue to a point of intersection with the southerly right-of-way line of Coleman Avenue;

THENCE proceeding in a southeasterly direction 3,630'+/- along the southerly right-of-way line of Coleman Avenue;

THENCE proceeding in a northeasterly direction 100'+/- perpendicular to the centerline of Coleman Avenue to the true point of beginning.

NORTH MARKET STREET

BEGINNING at a true point at the intersection of the southerly right-of-way line of East Julian Street and the westerly right of way line of North Market Street;

THENCE proceeding in a southeasterly direction 237'+/- along the westerly right-of-way line of North Market Street to a point of intersection with the northerly right-of-way line of Devine Street;

THENCE proceeding in a southwesterly direction 194'+/- along the northerly right-of-way line of Devine Street;

THENCE proceeding in a southeasterly direction 60'+/- perpendicular to the centerline of Devine Street to a point of intersection with the southerly right-of-way line of Devine Street;

THENCE proceeding in a northeasterly direction 194'+/- along the southerly right-of-way line of Devine Street to a point of intersection with the westerly right-of-way line of North Market Street;

THENCE proceeding in a southeasterly direction 245'+/- along the westerly right-of-way line of North Market Street to a point of intersection with the northerly right-of-way line of St. James Street;

THENCE proceeding in a northeasterly direction 100'+/- perpendicular to the centerline of North Market Street to a point of intersection with the easterly right-of-way line of North Market Street;

THENCE proceeding in a northwesterly direction 245'+/- along the easterly right-of-way line of North Market Street to a point of intersection with the southerly right-of-way line of Devine Street;

THENCE proceeding in a northeasterly direction 411'+/- along the southerly right-of-way line of Devine Street;

THENCE proceeding in a northwesterly direction 60'+/- perpendicular to the centerline of Devine Street to a point of intersection with the northerly right-of-way line of Devine Street;

THENCE proceeding in a southwesterly direction 411'+/- along the northerly right-of-way line of Devine Street to a point of intersection with the easterly right-of-way line of North Market Street;

THENCE proceeding in a northwesterly direction 242'+/- along the easterly right-of-way line of North Market Street to a point of intersection with the southerly right-of-way line of East Julian Street;

THENCE proceeding in a southwesterly direction 100'+/- perpendicular to the centerline of North Market Street to the true point of beginning.